

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

TUYEN TRAN,

ORDER
05-CR-104S

Defendant.

1. On April 19, 2005, the Grand Jury for the Western District of New York returned an Indictment charging Defendant Tuyen Tran and others with conspiracy to possess with intent to distribute 50 kilograms or more of marijuana in violation of 21 U.S.C. § 846. This Court thereafter referred this matter to the Honorable Leslie G. Foschio, United States Magistrate Judge, for all pretrial matters pursuant to 28 U.S.C. § 636(b)(1).

2. On June 30, 2005, Defendant moved to suppress evidence including her post-arrest statements and the contents of her cell phone. Judge Foschio conducted an evidentiary hearing on the suppression Motion on October 27, 2005, and January 3, 2006.

3. By Report and Recommendation entered on May 23, 2006, Judge Foschio recommended that Defendant's Motion to Suppress be denied.

4. On June 5, 2006, Defendant filed timely Objections to Judge Foschio's Report and Recommendation in accordance with 28 U.S.C. § 636(b)(1)(C) and Local Rule 72.3(a)(3). After full briefing on the Objections, this Court heard oral argument on September 5, 2006, and reserved decision at that time. On September 26, 2006, Defendant made a supplemental submission in support of her Objections to Judge Foschio's Report and Recommendation.

5. This Court has thoroughly reviewed *de novo* Judge Foschio's Report and Recommendation, Defendant's Objections, the arguments of counsel and the applicable law. Upon due consideration, this Court finds no legal or factual error in Judge Foschio's Report and Recommendation. Accordingly, Defendant's Objections are denied, and this Court will accept Judge Foschio's Report and Recommendation in its entirety.

IT HEREBY IS ORDERED, that this Court ACCEPTS Judge Foschio's May 23, 2006 Report and Recommendation (Docket No. 40) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that Defendant Tuyen Tran's Objections (Docket No. 42) are DENIED.

FURTHER, that Defendant Tuyen Tran's Motion to Suppress (Docket No. 14) is DENIED.

SO ORDERED.

Dated: October 2, 2006
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge